



**OFFICE OF CLERK-RECORDER
REGISTRAR OF VOTERS**

LEE LUNDRIGAN
County Clerk-Recorder

1021 "Y" Street, Suite 101, Modesto, CA 95354
Telephone: 209-525-5200 Fax 209-525-5210

March 26, 2009

Office of Administrative Law
Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

RE: OAL File No. 2009-0324-01EE
Election Manual Tally Requirements in Close Contests (PEMT)
Public Comments: Stanislaus County

Dear Pam Giarrizzo and OAL Reference Attorney:

Please accept this letter pursuant to your web site invitation for responses to OAL file number 2009-0324-01EE the Secretary of State "Post Election Manual Tally Requirements in Close Contests". As the Clerk Recorder and Registrar of Voters of Stanislaus County I have serious concerns regarding the Proposed Emergency Regulations submitted on March 24, 2009 by the office of the California Secretary of State.

The original Emergency Regulations were adopted by OAL in October 2008. As drafted and placed before the OAL, the proposed regulations continue to be unclear as to their ultimate purpose and run the risk of expenditures in the millions of dollars. As we understand, the Secretary of State has been quoted on Form STD 399 as estimating the cost between \$20,000 and \$680,000. This figure was based on in which costs incurred by only 29 of the 41 counties required to conduct PEMT hand tallies in November were available. Although Stanislaus did not fall under the PEMT in November, a county wide variance requiring a complete hand tally would incur a cost of over \$178,000 for Stanislaus County alone.

As written, the regulations call for a hand tally of a percentage of precincts in contests when the election night outcome is less than one half of one percent. In the event of any variance or change between the election night outcome for a given precinct and the outcome of the manual tally for that precinct which would narrow the margin, the proposed regulations call for expanding the precincts to be hand tallied by blocks of 5%. It is probable in a close statewide contest based on election night results, these regulations could potentially escalate to a 100% hand tally. In California the PEMT costs for a single statewide contest could run \$10 million based upon ONE close contest assuming \$400 per precinct multiplied by 25,000 precincts in the state.

It is important to note the hand tallies required under the PEMT are based on semi-official election night reporting results. The money expended on PEMT is spent on hand tallying

March 26, 2009

page 2

Stanislaus County Comments

OAL File No. 2009-0324-01EE

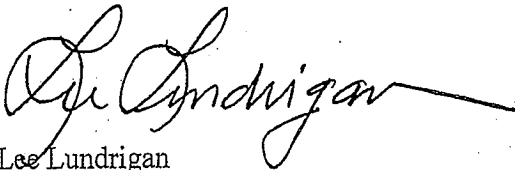
Election Manual Tally Requirements in Close Contests (PEMT)

contests from this mid-point in the election tally. The results of the election night reporting may not even be close when all ballots are finally counted. On election night in November 2008 Stanislaus County had counted 125,298 of the ultimate 162,941 total ballots cast. The difference was 37,643 ballots between election night and the final Statement of the Vote. The PEMT cannot change the outcome of an election, and has the potential for a significant expenditure of public funds at this time of economic distress with no result.

Thank you for your consideration of the concerns of Stanislaus County. It is our respectful request that the Proposed Emergency Regulations not be approved. In the event they are approved, full funding should be allocated in an amount which would fully and immediately reimburse counties for this unbudgeted expense.

If you have questions, please feel free to contact my office at 209-525-5211.

Very truly yours,



Lee Lundrigan

Stanislaus County Clerk Recorder & Registrar of Voters

cc. Office of the California Secretary of State
Stanislaus County Board of Supervisors
Stanislaus County Chief Executive Officer
Stanislaus County Counsel